

MERRILLVILLE BOARD OF ZONING APPEALS

April 22, 2015

6:30 PM

The Board of Zoning Appeals meeting of April 22, 2015 was called to order by Chairman Minchuk at 6:30pm and led the group in the Pledge of Allegiance.

ROLL CALL

Members in attendance were Mr. Holtz present, Chuck Stojakovich is here, Mr. Minchuk here, Robert Bigelow here and Tim Fortier, absent. Staff in attendance was Dorinda Gregor, Attorney Touchette and Bob Csanyi of Robinson Engineers.

MINUTES: None

COMMENTS FROM THE CHAIRMAN

Chairman Minchuk proceeded I will call the case by case number and name of the petitioners I would ask that you come forward state your name and address for public record at which time you will be given an opportunity to present your case accompanied by any professionals that you may wish to have. After that we will have the open the case for further comment. If you are desirous of speaking for or against any case we ask that you please sign in at the registry in the center of the isle. We will have a question and answer period followed by a staff report pertaining to each case presented this evening. We will also render a decision either for or against or a deferral for more information or other reasons which we will state. Would you please at this time silence any communication devices, cell phones or pagers. We will appreciate it. Thank you.

COMMUNICATIONS

OLD BUSINESS

None

NEW BUSINESS

Z11E4-0415 HORTENSE CAMPBELL, PETITIONER

GEORGE TSAPALIARIS, OWNER, Located at 6740 Broadway Special Exception approval in a C-2, Community Commercial zoning district for a proposed restaurant with drive through to be known as Kashe Jamaican Restaurant and Grill.

Mrs. Gregor read her staff report. Conditions if approved for this petitioner only, at this location only and for this use only.

Chairman Minchuk asked if there is anything to add to that. You have a very good business plan. I knew the previous owner very well. I have nothing against it myself but does anybody have any questions or comments

Mr. Bigelow said I have just a couple of questions on this site plan it shows two drive-up windows. When I was out there there was only one drive-up. It looks like the building has been expanded to the north and has closed off the window. So are you planning on using only one drive-up window?

Chairman Minchuk said the original owner closed one down and then he had a squat box over there and changed it to the other side the south side. The north side was one time but he took it away on the south that is where the previous owner had it.

Mrs. Gregor said this is an old site plan back to 1992 and they will they provided this for me so it is old.

Chairman Minchuk said that was when it was Daddy-O's. What they had at that type of order at one window and pick up at the other I remember that.

Mrs. Gregor said and I loved Daddy-O's.

Mr. Holtz said I have nothing the business plan is fine.

Mr. Stojakovich said can you go through the menu real quick what's going to be on it.

George Tsapaliaris replied some ox tails, brown stewed chicken. For the vegetarian we can make a dish with rice and cabbage or vegetables, Marconi and Cheese. Candy yams. Hopefully we can bring in some beans. Americans like pinto beans and then we will have some crab legs probably when seasonable. Gumbo, shrimp a lot of different stuff.

Mr. Stojakovich asked if they have any other restaurants.

Mr. Tsapaliaris said it is the same as Jamaican food.

Chairman Minchuk said if you have looked inside of the building you know that it is in bad shape from the fire.

Mr. Tsapaliaris at it and one side really. The fire damage is not as bad as we thought that it was more difficult that it really is. We have a contract with the owner to have someone go in and see what the fire damage was mostly where the fire started and not much roof damage where we can't renovate in 6 weeks

Mrs. Gregor said the petitioner is aware that he has to get a permit.

Chairman Minchuk said have the fire marshal out before the business opens.

Mrs. Gregor said before the business opens

Chairman Minchuk said I have no further questions. Do you want to catch up on this or do we have a motion. The developer said he is just going to redo the inside and clean up the mess. It has been vacant for a long time.

Mr. Fortier arrived at 6:43p.m. He asked including the parking lot

Mr. Tsapaliaris said everything will be renovated.

Chairman Minchuk said instead of having an empty building. I would rather have something there.

Mr. Fortier said I had a chance to look at it and if we have a chance to get something in there and the building and the grounds renovated it would be great.

Mr. Stojakovich said let the record show Mr. Fortier has arrived and also spoken.

Chairman Minchuk said I would like to entertain a motion

Mr. Holtz made a motion to approve Z11E4-0415 for this petitioner only, at this location only for this use only.

Mr. Bigelow seconded the motion.

Chairman Minchuk asked for a roll call. Anybody in the audience that would like to talk for or against this. How about you newspapers people.

Mr. Holtz yes, Mr. Fortier yes, Mr. Bigelow yes, Mr. Stojakovich yes and Mr. Minchuk yes.

Motion carries 5-0

Chairman Minchuk said see Dorinda.

Z12F5-0415 LONG TERM INVESTMENTS VI, LLC, PETITIONER

EDNA, ROBERT, GERALD LUEBKE, OWNER, Located at 171 East 93rd Avenue for a Special Exception approval in a C-2, Community Commercial zoning district on 11.3 acres for a proposed 100 bed nursing and assisted living facility to be known as Bell Tower Health and Rehabilitation Center

Jeff Ban I am the project engineer with DVG at 11061 Broadway Crown Point. I am here with Ryan Marovich. Ryan is passing out some photos of a project that this proposed project is going to be patterned after. To refresh your memories I think that all of you were here except Mr. Bigelow. We were here two years ago when I was in front of you on the same parcel for the same use except a different owner for you on a project on 11 acres on the south side of 93rd Avenue behind the Ace Hardware where Jiffy Lube complex. It was purposed then as a skilled nursing facility which your board and then the town council subsequently approved unfortunately that project for business circumstances did not get executed and so the approvals that you granted and the approvals that the plan commission granted were gone away. In the years since then others have looked at this parcel a couple of different times with different entities Long Term Investments VI is a client of ours that did a similar project in Chesterton at a site called Addision Point is between Dickson Road and State Road 49 you can see it from State road 49 and north of 1100 north and Porter Avenue it is just at the west door step of Sand Creek.

The town was very favorable of that project and I believe if you want to talk to anyone in Chesterton they have been a great corporate citizen as well. They are a skilled nursing, assisted living, health care provider and they provide transitional care rehabilitation for those who have had surgical that need a little bit of short time stays. Very much the same as MainStreet that we got approved two years ago so there is really no difference in the terms of business that is being proposed here today as part of the petition and we believe that this is consistent of what you have approved two years ago and see nothing in the environment that has changed that would make your decision different today as you took action on today as you made your decision on two years ago. So from a findings perspective it is consistent

with the property values and is not creating any safety hazards and is consistent with the other properties in the area. With that being said I will keep my presentation short.

Mrs. Gregor read the staff report. Conditions if approved for this petitioner only at this location only and for this use only. Must meet the concerned of the MainStreet.

Mr. Ban said we were before the plan commission last night and got our 1 lot subdivision approved and issues of drainage have been identified as we continue on with the details the project we are committed to fulfill those drainage conditions.

Chairman Minchuk said we need information for the number of employees, size of units. Do we have all of that?

Mrs. Gregor replied no we don't

Mr. Ban replied number of employees 85-95 with a total of 3 shifts. The square footage was the other item is about 65000 square foot of the whole building.

Mrs. Gregor said what about the units.

Mr. Ban replied they would probably be in the area of 200 to 400 square feet.

Chairman Minchuk said I don't understand about this moratorium on nursing homes where did that come from.

Mr. Ban said there is what is called Senate Bill 460. That was a bill passed by both sides of the legislature both the house and the senate and it currently the bill is on the desk of the governor for his action and there has been very aggressive attempts by both the pros and the cons to influence his signing in behalf of that bill. The bill puts a 3 year moratorium on building any new senior care facility. Any skilled nursing facility. There is some argument that supported the bill that the argument is that there is Medicaid that is tax related money that there ought to be some regulation to the quantity and location of these kinds of facilities. The opponents of the bill says the markets should make that determination. I will pass out if you are interested that the Times put together an editorial article that kind of weighted in on it a little bit from an education perspective if you would like to know a little bit more about this. From what we understand and I don't want to stand up here and talk to you like I am an expert of this bill which have been engaged in a number of projects not only with Long Term Investments so we have been working with Mainstreet and we have been keeping a pulse of what is going on and how this bill is going to be interrupted and implied and whether or not this project is considered one of those types of facilities that is still yet to be determined so if your approval is granted and the plan commission continues their approvals to the extent that this project will move forward if the governor signs the bill I can't tell you that yet and there are some legal things like I said last night that are above my pay grade that will have to be my kind of legal staff of this petitioner. But from that perspective there is some hesitation in the market place what should happen and there is also a deadline that says that any project hasn't started construction or gotten a permit by March 1st of 2015 which I don't understand how you can back

date when the legislation isn't in force how you can go backwards so there are some things legally but there about this bill. It was in front of the legislature last year and did not get passed and it was before the legislature the year before it did not get passed. This year it did get passed. There is a lot of effort on both side of the table to preserve market of existing facility and try to provide better and newer and better health care and better facilities to provide that health care in these kind of facilities those developers are arguing against what has been passed so I don't know if that is boring you or not. I am looking at your Mr. Chairman.

Chairman Minchuk said any questions or anybody bored.

Mr. Fortier said I do have to make a quick statement advised by the Council that I have done work with DVG but I am not involved in this project in any way. So I have no gains or losses to be affected by it.

Mr. Holtz said and the assisted living side of it I guess what I am used to is assisted living is for long term. Are these going to be long term?

Mr. Ban said these are short term stays. On the agenda here Long Term Investments which we are proposing Bell Tower Health and Rehabilitation Center. The rehab is a key term and it is short term stays this is not where someone that comes here is going to live for the rest of their lives. That is not what this business is here it is for short term health care needs.

Chairman Minchuk asked if there is anything else.

Mr. Fortier said so this is coming before us Dorinda because of the for this petitioner only clause and the first approval.

Chairman Minchuk asked if there is anyone in the audience

Mr. Holtz said in some places it says 10.8 acres and other places 11.3

Mr. Ban said it is a gross 11.3 and when you start taking ride a ways out it is 10.8 so the gross acreage per the legal description is 11.3 I believe it is.

Chairman Minchuk seeing no other questions I need motion.

Mr. Holtz said I would like to make a motion to approve Z12E5-0415 for this petitioner only for this location only for this use only and obviously they have to have the drainage approved.

Mr. Stojakovich seconded Mr. Chairman.

Chairman Minchuk said roll call vote please.

Mr. Holtz yes, Mr. Tim Fortier yes, Mr. Bigelow yes, Mr. Stojakovich yes and Mr. Minchuk yes.

Motion carries

Z13V4-0415 BROADWAY PROPOERTY GROUP, LLC, PETITIONER & OWNER, Located at 7320 Broadway for a Variance from Sec. 21-15(a)(1) adding onto a legal non-conforming building and a Variance from Sec. 21-172(14)p. to reduce the number of required parking spaces in a C-2, Community Commercial zoning district on 1.0860 acres for a medical clinic.

Good evening, Attorney Gregg Bouwer 425 Joliet Suite 425 Dyer, Indiana I am here on behalf of Broadway Property Group. The owner and petitioner in this situation seeking those 2 Variances form the Town of Merrillville. My Client the current owner of the property is located is an International Tennant Bio-Med. We meet and provided the materials to the Town of Merrillville's building department way back when in fact we got a zoning letter form the Town of Merrillville that this is a permitted use at this location. We provided the information with the respect for this entity as operated these blood plasma donation centers throughout the world there is probably certainly 100's if not 1,000's of these locations it is an International company. The client has generated interest in this site and Bio-Med will lease this site on a long term basis if we can get these 2 variances and these 2 variances relate to basically I think that you are probably familiar with the site. I will make a few trips up here if I could. What I remember is that it was the old Albert Slater site. In the back of this facility is a large warehouse which was associated with a furniture store and what is proposed to happen with that back warehouse it is going to be taken down and a small area is going to be re-added to the existing front structure. You can see on this (photos.drawings) it show the addition over 2500 square feet being added to the rear of the facility reducing the building that is presently existing in that back area and replacing it with parking spaces back there and then I also as part of this that addition will go on after the demolition but then the front of the building will receive a significant upgrade. You have probably been given a copy of this rendering but I don't know if it was in color but I thought that we would provide this so you could see the market just to see what these parties intent to do with the front of this building which is part of the renovation's occur to make it suitable for Bio-Meds intentions and I think I can't say that will be the exact sign because our architect prepared that but I assume that it will be associated with the actual business that is operated. The Tennant has made the commitment to go in to this space at this time if we can obtain the variances so we have explained the addition on the back and the additional parking that is going to go in that area but based on the language so that is one of the variances that we need to add on to an existing non-conforming use. This building has been there a long time and this will be a significant renovation to it but we don't need to take down the front part of the building that is structurally acceptable and can be renovated interior and exterior. The back of the building just didn't work so we have to take that down and add the addition. The second aspect of this variance we are asking for tonight relates to parking. We believe this is a unique situation and that is a prime issue as to why this board exists.

Chairman Minchuk said we can let Dorinda read the staff report and that will explain most of it and then you can go into detail a little bit better.

Mrs. Gregor read her staff report. If this is approve the conditions are for this petitioner only at the location only for this use only

Attorney Bouwer said that highlights the second aspect that I was going into about the parking. We believe this is a prime case for the board because this is a unique situation we are dealing with. The parking spaces that are generated from the

ordinance are based on actual what we believe the wording of the ordinance is what would they be called examination rooms with a medical clinic so you typically go in there. Kids will go in with parents. Multi siblings can go in at a time people wait for people when they drop them off. This has none of that. People show up to donate blood and then they leave they don't go with other people. If they do go with other people they will be donators also. Touching on the Town of Merrillville's questions to us. The first year of operation the hours will be 8:00 am -4:00pm Monday through Friday. There is going to be 25 employees' total two shifts 12 at any given time and then there is 5-10 customers per hour during the first year of operation so you can start adding those hours up and that is why the tenant Bio-Med is completely comfortable. That is why they wanted to be commitment to 82 spaces. Now the second year of operation they expect to ramp up to full operation at that time and then we will take a look at those numbers then the hours could expand to 6:00am to 9:00pm but really everything trails off after 6:00pm and that will still be only Monday through Friday. At that peak operation they expect to have 50 employees total in two shifts, 25-30 employees at any given time will be the maximum on the site and there is 10-20 customers per hour. There are 50 stations total within their layout which will be provided to the Town of Merrillville we won't get a building permit without it. That is how it is set up but once again it is not like a doctor's office. I represent numerous medical groups and they stack everyone for medical examination rooms. It is called stacking of patients so there are typical 3 people stacked for every room in some of these practices that might explain why we wait so long. But that doesn't happen when people go in then the station is then prepared for the next person so there is not a stacking going on with all these rooms so if we take the 25-30 employees and 20 customers max per hour and this is based on 100's to 1,000's of location throughout the world these number. This is not a fly by the seat of your pants operation they know what they do and they know what they wanted we believe the parking is more than adequate for this type of medical use. The tenants specially approved 82 spaces. I know that the Town is concerned about those 8 spaces and coupled with this it is a big benefit for everyone concerned the town and my client and this tenant is at this cross access will work with this particular tenant. We can proceed with that but associated with because some people would think that it would be a big problem when there is low traffic for this particular use so that is why they are ok with that. What we would like to do is work with the town building department ultimately with the site plan but we still need to make out the 82 spaces somehow on the site for our tenant. Our tenant knows its needs so it doesn't want its customers to be inconvenient. There is no other parking but here. From our stand point that is acceptable and from the tenant they want the 82 and we are willing to work with the town to get to that. I guess if you want to give us a better variance we would accept that but we are still going to work with your town department to get up to 82 so I hopefully stated that clear. If you want to give me a variance for 74 we would accept that but we still

Mrs. Gregor replied possible with an agreement with the town that 8 customers or 8 clients can park on the town property by Public works.

Mr. Bouwer said ok if we can exchange that we can make that work for our tenant and for us that is what we are willing to commit because we do have the cross access easement ready to go if we can make this work. If you know anything about cross excess your garage is that an acceptable term or facility is right behind it to the west and you can take our drive that is located here right out to Broadway which I think will be a significant benefit because I understand there is road

construction coming this summer and obviously it is a benefit to us too but so you know my client has allowed the town to use that without any formal agreement in place so you have been utilizing that all along.

Mrs. Gregor said I think that the towns concern is if somebody were to exit their vehicle and cross in that path as a possible police car having to respond to a call back on to Broadway there might be some injuries or I think that is their concern.

Mr. Bouwer replied we are willing to work with the town. I talked to my client on the way here. I said this is a big concern we got to figure out what will work for everyone but based on that I am willing to answer any additional questions that the members have but we believe this is a big win. These are new jobs for this area new business coming into this area these are medical jobs provides a good service. This entity operates 100's I actually thought it was 1,000's that I presented to you Dorinda at our meeting that I sat down but I don't want to overstate it they have a web site it is an international company. Obviously the construction will be a significant renovation that helps the local economy all the surrounding uses are compatible with this. They are all commercial and then again our tenant has made this determination it is acceptable for their long time uses so with that I am happy to address any questions from the board.

Chairman Minchuk asked Dorinda so is there a meeting between the town manager his client and the town attorney.

Mrs. Gregor said there was a meeting with the town manager and that was where the town manager agreed to allow them access for their customers to access public works property to access out on to west 73rd Avenue if the town can continue to use that access drive to enter off of Broadway to the gas pumps or public works. It was made it was verbal. Is it in writing now?

Mr. Bouwer said it is in writing my client is just waiting to make sure he can locate this tenant there that it will work long term with this tenant that is one other point that will just jump in. This is a single tenant use instead of breaking a building up where you might have parking issues. This is one tenant that is going to take this whole facility which provides another layer of comfort for everyone.

Mrs. Gregor said we have had people already coming into the office to see when they are open. So the words out. That is something between Bruce and Attorney Bouwer working on so we will make sure that is in the files.

Chairman Minchuk asked if there is anyone on the board that has questions.

Mr. Holtz said I realize that you were saying they were concerned about people crossing across. What if parallel parking was along the building?

Mr. Bouwer said that is why we are working with the town and the planning and building department and Mr. Spires to make sure this all works the parking and everything else.

Mrs. Gregor said we can look at that probably before the construction the interior remodel to make sure the parking and everything is in place.

Mr. Fortier said if we grant them the variance on a decreased number of parking spots it is a moot point for us it is more for his landlord than it will be for us. We are granting him the ability to do this development with the limited number of parking spaces.

Mrs. Gregor said with 74 verses 82 provided that the town works with them on finding about 8 more parking spaces somewhere along the line.

Mr. Touchette said I did hear you correct in that you will need 82 spots is that right.

Mr. Bouwer replied yes for our tenant.

Mr. Touchette said why get a variance for less.

Mrs. Gregor said because we would have to remove the 8 on the south side of the property that's what was suggested because of the safety issue.

Mr. Touchette said they would have to have 82 spaces eventually right.

Mrs. Gregor said yes and that is where Attorney Bouwer and the town manager are going to work out something whether there is parking

Mr. Touchette said so with the cross

Mr. Fortier said you could have off property parking designating parking for their usage.

Mr. Touchette said so you can grant the variance contingent on the cross easement access easement or whatever

Mrs. Gregor said or finding additional parking

Mr. Touchette said adding enough parking spaces to total 82

Attorney Bouwer said or we might be able just for the flexibility we might be able to go back to the tenant. The tenant right know is 82. We might be able to work with the tenant to start off because the first year work out a situation where everyone is taken care of in their

Chairman Minchuk said they are talking about using the parking spaces that the town employees in the back for public works. He is talking maybe uses maybe I didn't hear you right but I thought that you were going to ask to use some of those spaces.

Mrs. Gregor said possibly but it looks like that they may be able to fit 4 of those 8 along the south side of the existing building right there and so we might be only looking for 4.

Attorney Bouwer said what we want to do is work with our site planners and the town to achieve an acceptable solution for the whole access drive and the additional parking.

Mr. Touchette said wouldn't you want to get that in place up front though before you open

Attorney Bouwer said I really believe from the BZA we need the variance to give us the room to work.

Mr. Touchette said I understand that you need a variance ok, but you also need 82 spaces so I think that you need to have some kind of condition on this variance that ultimately there will be 82 spaces.

Mr. Fortier said the person is saying that they

Mr. Touchette said once the place is up to full operation

Mr. Fortier said the numbers that he showed us won't require 82 parking spaces.

Mr. Touchette said he said he is going to need 82 parking places

Mr. Fortier said the land owner is saying that.

Attorney Bouwer said right now there is a commitment in writing between the landlord and the tenant for 82 but we haven't flushed out the issues anymore

Mr. Touchette said but the tenant thinks he is going to need 82 spaces.

Attorney Bouwer said they wanted 82 specify.

Mr. Touchette said so ultimately you need 82 here so if you are going to approve less than 82 don't you want some kind of condition that there will be 82 established ultimately yes for the first year you can your second year when you are in full operation right.

Attorney Bouwer said correct

Mr. Touchette said could you have a condition that a variance for 72 or

Mrs. Gregor said looking at this there may be even 5 along this side of this building if you extend this one out and then 4 over here as long as there is a 25 foot access drive through there so we are now reduced down to 3 yes.

Mr. Touchette said I understand the details aren't worked out yet ok in a written agreement but I would think you would want to get your paper work in order that there will be 82 and there needs to be some kind of time frame put on this. If this is what the tenant needs because if you don't do this then you are just setting up problems for later on and not looking to be unreasonable on this I think that the town manager has indicated that he will work with you and I think that getting extra parking places and I just think that it should be done up front.

Attorney Bouwer said if we pick out what we want from the town through this cross access if we need 3 on the back side working with our back property line and our parking configuration. If we have the variance for the 74 right now that just protects us with the town but we still have to satisfy our tenant so the tenant is still going to be driving that issue so it doesn't really their parking requirements will

still be satisfied under its lease so you can set the number we thought it was going to be 82 but now the town wants to possible take 8 based on that to avoid us coming back 74 would be great but.

Mr. Touchette said I don't understand not trying to be difficult I just don't understand why you need a variance I can understand a variance for a period of time ok.

Mr. Bouwer said our first year we are not going to be up to full speed and we won't have the traffic but we fully expect by year 2 to need 82 spaces so you know we should have 82 spaces in place by the end of the year or I don't see what the problem with that. I don't know what benefit it really drives because what you are going to do is give us a variance for our site

Mr. Touchette said the benefit is your tenant has the 82 spaces that you say you need.

Mrs. Gregor said but a code doesn't regulate this type of operation. It doesn't differentiate this type of operation from a medical facility and so

Mr. Touchette said well do they need the variance or not.

Mrs. Gregor said they would if this was a medical facility once again you have to have 3 spaces for each examining room.

Mr. Touchette said ok and that is on paper ok but he is telling us they need 82 spaces.

Mrs. Gregor replied right

Mr. Touchette said so as a practical matter they need the 82 spaces.

Mrs. Gregor said in a practical manner they would need more if they had 50 rooms they would need to have 150 parking places plus one for each employee so therefore the reduction would be needed. He is saying they could get by with 82. Then this is a different scenario

Attorney Bouwer said that is a lease obligation and if I can convince my tenant about the situation and we can amend that then we can change that number down based on the site plan. With the town if I get to high a number right now and I can work it out with my tenant then I am back here again.

Mr. Touchette said so why don't you work it out with your tenant then.

Attorney Bouwer said he wants to start immediately

Mr. Touchette said I ...and your tenant is expecting 82 spaces

Attorney Bouwer said right now yes

Mr. Fortier said the alternative I think could be the property owner saying you know longer access to my parking lot and I will have 82 spaces.

Mr. Bouwer said I understand that I am just

Mrs. Gregor said they can make him do that they can create the 82 spaces and eliminate the town from making an access through their property to get to

Mr. Stojakovich said it is their property right

Mrs. Gregor said so their actually doing the town a favor because the town wants this access off of Broadway with the big trucks. That is a big benefit for the town.

Chairman Minchuk replied you said it was in writing can we see a copy where it is in writing.

Mrs. Gregor said we don't have anything. Attorney Bouwer is working with the town manager. I have seen nothing.

Attorney Bouwer said we will accept that as a condition that has to be

Chairman Minchuk said I would like to see this before I agree with anything.

Mr. Touchette said I had a question also. There is 50 stations here and you say there is going to be a maximum of 20 customers Are you buying blood or

Mrs. Gregor said yes and Plasma

Mr. Touchette said so there is going to be a maximum of 20 in there at a time as a curiosity how come you would have 50 stations.

Attorney Bouwer said to clean them as they rotate in and out so you can't stack and stick someone in you have to clean the whole situation and prep it for the next person so it is just someone moves out and then they go and prepare it for the next person but then it is down for a while so it is just a constant rotation

Mr. Stojakovich asked are each one of these stations that you are talking about considered a medical room. There are two parts to my question. Because you have a lot of questions to answer with the conservancy district to get a sewer availability letter. You are changing use of this building you are going to go under a medical use no more retail and there is going to be a lot of questions that need to be answered and a lot of plans that are going to have to be submitted which nothing has been done so far as far as the conservancy district is concerned.

Attorney Bouwer said then we will have to take that step.

Mr. Stojakovich said yes. You have to have industrial pretreatment and then there are probably sampling stations. We have to know what you are putting in those sewers.

Chairman Minchuk said you would be bio-med.

Mr. Stojakovich said we will have to sit down as soon as possible.

Attorney Bouwer said they will be coming in for permits and everything with the town.

Mr. Stojakovich said there will be no permits issued until you take care of us and we will get it done as quickly as possible.

Mr. Bigelow said one more quick question with the two driveways or entries coming off of Broadway. Could you cut that to one and gain some eliminate the north of the two entries you would gain some parking there or at least a couple of spaces maybe 3.

Chairman Minchuk said no traffic will sit there now. Have you ever seen when the furniture store was there the traffic would cut one another off? The problem is she had mentioned earlier Dorinda you have an emergency vehicle there and you only have one exit something could happen we were talking about earlier. Some emergency vehicles when they get a call actually that building is blocking till you get toward the end. You have like another 50 feet that is open I am just worried or if a truck is coming out and you only have one place to exit. Means of egress means a lot it really does. I am worried about when the trucks or emergency vehicles are coming out sometimes or all the time fire trucks, ambulance fill up there and they come flying out of there on an emergency call then you only have one means of egress we could possibly be looking at a bad accident. That is my safety point that I am worried about.

Mr. Stojakovich said Dorinda the road that is going out to 73rd naturally 73rd is going to be expanded have a center lane and it is going to be great when that is done. That is going to be done pretty soon. Is there going to be any work on that road because it is not very wide on that side of the building. That is on the east side I want to call it the museum you know the historical building.

Mrs. Gregor said so you are asking if the access drive going out to 73rd is going to be

Mr. Stojakovich said going to be widen or anything like that

Mrs. Gregor said there is no where for it to go. There is a building and there is a property there.

Mr. Touchette said you are land locked you got a building and a property line and what is paved there is all that we own.

Mr. Stojakovich said I think that the town can make its own adjustments in their own parking lot which would be re-organized

Chairman Minchuk said I would like to see that project before I agree that is just my view. Before I agree to anything I want to know that the town manager, the town attorney what they are saying what kind of agreement was made and if it is their property anytime they can turn around 6 months from now you are gone and say forget it you can't use it anymore.

Attorney Boucher said here is the draft of the cross access easement. It is a perpetual easement but

Chairman Minchuk said is it signed and everything.

Attorney Boucher said no but it

Chairman Minchuk replied I want to know what our attorney has to say about it our town attorney and I want to know what the town manager says about it you know what is going on with this. I would like more information before I decide to even vote for it. And again that is just my opinion.

Attorney Bouwer said the cross access might have to be adjusted based on the parking and everything but Bruce, Mr. Spires approved there is approval on this document it is rather simple. It is just that you have the right to come on our driveway and we have the right to come out your drive and it is a perpetual.

Mr. Holtz asked if it gives you access to parking.

Attorney Bouwer said no not right now because this thing didn't come up until the town reviewed the 8 parallel spots so that is why if there has to be adjustments we are willing to work with the town regarding the site plan to make it all work. You can certainly make it a condition of approval that the town attorney and the town manager approve of the crossing the access easement agreement.

Mr. Holtz said I don't have a problem with that we do that all the time because we do that all the time as far as condition of I mean if we don't see it today but we do with the engineering if they don't approve anything it doesn't get done.

Mr. Touchette said do you want the agreement to address parking also the additional spaces.

Mr. Holtz replied yes

Mrs. Gregor said that is part of the record of course.

Mr. Touchette said these things sometimes get lost in the shuffle ok and then things don't get done later on.

Mrs. Gregor said I would take that back to Bruce Spires the Town Manager to make sure that he is aware of what we are looking at.

Mr. Touchette asked if there is any reason why the document that you have there why it couldn't address parking now. Why you guys couldn't talk about this and hash this out. Assume that you need that you need the extra spots and just get it written up now. That document will get recorded right.

Attorney Bouwer replied yes.

Mr. Touchette said so I think that the parking needs to be addressed in there.

Mr. Holtz said I think while you were saying it wasn't addressed in there because he didn't

Mrs. Gregor said he was not aware

Mr. Touchette said I understand that but now he knows now they can address it.

Mr. Holtz said that is why we can put that in as a condition. If it is not in there then

Mr. Touchette said then who is going to enforce the condition

Mrs. Gregor said our office does

Mr. Touchette replied ok. I am just thinking that this parking lot I am familiar with the building and this is going to be people are going to be packed in there if they need that many spots that. If your tenant is correct and they need 82 spots which and there is 82 cars parked in there that parking lot is going to be packed.

Chairman Minchuk said I am worried about the traffic coming out. Emergency vehicles coming out or something then they will say you can't use it no more.

Mr. Touchette said think it is a good idea the building looks nice and all of that I just think that it would be nice to have the details worked out.

Attorney Bouwer said I appreciate that but I believe I know that this board is very sophisticated and can approve that based on the timing of this if we could get an approval that would allow the towns staff and its attorney to approve of the final document that could let this get going and let us work because with this tenant to get them in there and then adjust the site plan as necessary if my architect cause all of these guys and girls take these drawings and fit parking spaces in and based on what I think that the town has asked they want the drive all shifted completely to the south so then if we have more room for parking spots over there it might only be 3 and then the town manager might say that you could use these 3 parallel spots here and put that in and

Mr. Touchette said the document could be written as such that the town would provide enough spaces to mean your 82.

Attorney Bouwer replied ok.

Mr. Holtz said why can't we put that has a condition. See that is what I don't understand because we seem to do it all the time as far is on condition that the engineer approves it or on condition that someone else approves it and we vote and say ok.

Mr. Touchette said you can do what you want.

Mr. Holtz replied ok.

Chairman Minchuk asked are there any other questions or anybody else

Mr. Stojakovich said I have one more question the north side of the building is that all of your property next to the lock place Brandy's. Now do they use part of your drive too?

Mrs. Gregor said no there is some kind of separation.

Mr. Stojakovich replied there is some type of separation.

Mrs. Gregor said there is some type of wall built there.

Mr. Stojakovich said for that building being empty there are so many cars there lately. I live right across the street and I come out and I look at the building twice, three or four times a day and to see something like this go in there that would be great trust me. I just I like it I hope everything can be worked out with the town.

Chairman Minchuk asked Chuck if he is familiar with blood plasma centers

Mr. Stojakovich replied yes. I really don't need money that bad to give them my blood. But I think it is a good thing and it is a good spot for it.

Chairman Minchuk said a lot of them have security in them but why would you need security in a blood plasma. But we are not here for that.

Mr. Holtz said he would like to make a motion to approve Z13V4-0415 for this petitioner only, for this use only, for this location only also to get the approvals from MCD and we need a commitment letter between the town and the development to give additional parking spaces and the access as far as the town using this access road and your development using the access of the exit on Town property.

Mr. Bigelow said I will second that you are talking about a cross access agreement along the south portion of the property right.

Mr. Holtz said yes for the town to have access to their property and then for then to have access to west 73rd Avenue

Mr. Touchette said I think that you said a letter and I think that you said an easement those are two different things.

Mr. Holtz said whatever is proper. I said letter but if it is an easement

Mrs. Gregor said what have you prepared.

Attorney Bouwer replied cross access easement agreement.

Mr. Touchette said in recordable form.

Attorney Bouwer said yes and it has the deed reference right on the top that most people forget. The deeds are on both property.

Chairman Minchuk asked for a roll call vote please.

Mr. Holtz yes, Mr. Fortier yes, Mr. Bigelow yes, Mr. Stojakovich yes and Mr. Minchuk said I am worried about that safety issue because if somebody comes out of there. That is something that the town is going to have to look at with the tenant. When you get an ambulance or something coming out and you have people coming out after giving their blood I just see more bloodshed that is what I am worry about the safety. I am sorry I really do safety is not only for everybody.

Mr. Fortier said I am not familiar on how often emergency vehicle's on emergency responses use that access.

Chairman Minchuk said police do and then big trucks coming out of the street department and their visibility is not good. If they can work that out then I would say yes if they can work that out. I am really interested in that. It doesn't have to be a condition but if somebody can work something out like that a safety issue behind that Dorinda I would really appreciate it. I will vote yes. I would really like for someone to look at that what the safety issue would be on that. Means of egress for truck, police department for fire department especially with people parked there and coming out. Please do that and I will vote yes?

Mrs. Gregor said once again they may go back and redesign those parking places to be on the south side of the building instead of the south side of the property line.

Chairman Minchuk said it is approved. See Dorinda and she will figure it out. I would like to apologize but safety issues really big to me. Whenever I see something that could possibly have an accident or somebody get hurt it really bothers me.

Z14V5-0415 NATIONAL SHOPPING PLAZAS, INC., PETITIONER

ZOOM CLEAN INC., OWNER, Located at 5840 Broadway for a Variance from Sec. 21-131 to reduce the minimum required 2 acres to 1.15 acres for a proposed Planned Unit Development, PUD, C-2, Community commercial zoning district.

Mrs. Gregor read her staff report. If petition is approved conditions are for this petitioner only, at this location only, for this use only.

Good Evening Attorney Gregg Bouwer, 425 Joliet Rd Suite 425 Dyer, Indiana. I am here on behalf of my client National Shopping Plaza. With respect to the variance we are seeking for this site. I can hand out a few things if I could

Mrs. Gregor said they have these.

Attorney Bouwer said to show you the existing on site just so you will have for reference. This is the existing Zoom Clean car wash that exists but is not operating at the present time. My client you can see from the site plan is proposing to put 2 buildings on this site. The ordinance requires 2 acres for a PUD that is how we have to go to put 2 buildings on the site. The Town of Merrillville even if you grant this variance tonight still have complete control over what goes on the site in terms of the planning process and in terms of the buildings the approvals going forward. This will just enable us to go to the Plan Commission starting out to seek a favorable recommendation. To give you some indication perhaps you can hand these out my client this came in so I want to make sure I just had a few copies printed so you can pass them down possible if you want to take a look at them. All I want to do with these depictions we don't actually have the building design for our potential users at this time but this is the type of building my client construct throughout the Chicagoland area. We gave you the representation from KMA Architect does all of their buildings they probably have more than a 100 sites in the Chicagoland area. I know that I have put in 3 on Indianapolis Blvd in the last couple of years so when it is able to take down a building and put something new up these are nice brick buildings. Most municipality are extremely happy to have this type of building constructed on the site. These are the examples of the types of building. We can't commit to the uses if you see this just came from the architect

late just to make sure that you would have an understanding of what type of buildings would go on the site and with that we will welcome any comments from the board.

Chairman Minchuk asked do you know how many auto parts store in Merrillville. Broadway has so many auto parts stores.

Attorney Bouwer said it won't be an auto parts store. I can't commit to exactly at this point but I know it isn't an auto parts. What we have committed to do on this is one is a retail use but one is going to be an office use and obviously the Plan Commission and Town Council work with us ultimately dictate on that or not tie our hands but want to make sure there are controls we could put it but right now potentially it is set up as a retail and office.

Mr. Fortier said why are we looking at something with a drive thru.

Mrs. Gregor said could it be a restaurant or a bank.

Attorney Bouwer said it could be a mistake we gave you a plan that was early on right now a lot of plans float back and forth between architects and clients. Certainly the town can dictate this as part of the PUD. This is just to give you an indication of the retail A is the one that is planned for retail right now. The retail B is the one that is projected to go office right now. We also have to make the parking work on the site so but again we are trying to show you the layout so I would take it for the layout and not the drive thru. You are not approving a drive thru tonight.

Mr. Fortier said because that was also stipulated in Dorinda report and Hobart made a mistake with their Rt 30 and Clay street Dunkin Donuts drive thru that totally screwed up that property as far as access and traffic and getting to the BMV..

Attorney Bouwer said my client signed this application which says retail building and office building that is where it is going right now. The market obviously dictates what we would end up doing but again I don't think that your approval or blessing tonight is for any particular layout of any building or drive thru. Obviously I don't know what a drive thru would entail but I am sure that the town would have significant concerns that would have to be overcome as part of the planning process. We are just trying to proceed with a two building location and right now it is office. The B would be the office.

Chairman Minchuk asked if this has gone through plan commission already.

Mrs. Gregor said no not yet they need to get the variance for the reduction for the lot size first before it moves forward to the plan commission so we could possible put a condition on that there will be no drive thru as shown on the rendering submitted at the BZA level.

Chairman Minchuk said a retail business can be anything.

Mrs. Gregor said Attorney Bouwer is saying that it is definitely going to be an office that is what he stated.

Chairman Minchuk said he is right you wouldn't need a drive thru for an office. Attorney what do you think as far as eliminating the drive thru. Would we be safe doing it if we eliminate the drive thru?

Attorney Touchette said I guess well no drive thru.

Attorney Bouwer said at this time my understanding is retail and office building but again just so you know we would still have to get approvals.

Mr. Touchette said I know but you submitted something that had a drive thru on it ok so this is a relevant question. Do you want to withdraw that submittal and just leave no drawing attached with this and just do it with a straight up PUD and deal with drive thru later if you are going to have it?

Attorney Bouwer said that is what I would like too.

Mr. Touchette said so you want to withdraw your drawing with the

Mrs. Gregor said we will remove the drawing from the file.

Attorney Bouwer said ok.

Mr. Touchette replied ok.

Chairman Minchuk asked Fortier is that satisfy you.

Mr. Fortier replied because the town would have to review it with the building permit.

Mrs. Gregor said once again this is going to have to move forward to the plan commission as well as the council.

Mr. Fortier replied right so we are just giving variance on decreasing the necessary land for the two buildings which I am ok with it.

Chairman Minchuk asked if there are any other questions.

Mr. Holtz said if you are withdrawing the drawing do you go through your reading and take out the drive thru out of that or

Mrs. Gregor said they are going to have to have new rendering for the Plan Unit development at the Plan Commission and the Town Council level.

Mr. Holtz said ok

Chairman Minchuk said to many times today or many time people come in and they think they are given the wrong am I right or am I wrong. I understand it needs to be built. It is an area that is shut down and it would be fantastic to have something in there but so many times people come in here or businesses don't have everything they need to have. That bothers me you know. I just can't understand why people can't they are paying a lot of money and you think you are giving them the proper paperwork they are paying for it. It just bothers me that they can't bring what they are supposed to. With that do we have a motion?

Mr. Fortier said I want to make the motion to approve the variance on case Z14V5-0415 for this petitioner only at this location only for this use only.

Mrs. Gregor asked do we want to open this up to the public.

Chairman Minchuk said I really don't see much public out there.

Mrs. Gregor said I know but that is the legal process.

Chairman Minchuk said where is the condition about pulling the site plan

Mrs. Gregor said yes pulling the site plan for the proposed development out of the file.

Mr. Fortier said the condition provided at this meeting will be removed from the plan.

Mr. Holtz seconded the motion.

Chairman Minchuk asked anyone from the audience. Newspaper people. Motion made and seconded it. Roll call vote please.

Mr. Holtz yes, Mr. Fortier yes, Mr. Bigelow yes, Chuck Stojakovich yes and Mr. Minchuk yes.

Motion carries

Mr. Holtz made a motion to adjourn

Mr. Stojakovich second the motion

Motion carries

Meeting adjourned at 7:54PM

Respectfully submitted
Janet Rosko